

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LARRY J. BROWN,

Plaintiff,

v.

BELINDA SCHRUBBE, PAUL
SUMNIGHT and CYNTHIA THORPE,

Defendants.

ORDER

10-cv-129-bbc

On July 15, 2015, plaintiff Larry J. Brown filed a letter in which he asked about the collection of filing fees in his closed case. In his letter, plaintiff asks the court to order the Wisconsin Department of Corrections and Columbia Correctional Institution to reduce the percentage of his income being taken to pay his state and federal court filing fees based on the "First In/First Out" provision of DAI Policy # 309.45.02. I construe plaintiff's letter as a motion to waive or reduce his monthly payments of the unpaid balance of his filing fees and will deny the motion for the reasons discussed below.

Plaintiff says that prison officials are taking 100% of his income to pay previous debts, leaving him unable to afford to purchase hygiene items from canteen. However, the June 2015 account statement plaintiff submitted with his motion shows that the institution is withholding 20% of his income for the civil case filing fee and 20% for the subsequent appeal of this case. This is consistent with the Prison Litigation Reform Act. Under that Act, an

inmate who files a lawsuit in federal court under the in forma pauperis statute must pay the statutory filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments of 20% of the preceding month's income in accordance with 28 U.S.C. § 1915(b)(2) until the remaining balance for his case is paid in full. That seems to be what the institution is doing in this case. Therefore, I must deny plaintiff's motion to waive or reduce his monthly payments. If plaintiff believes that the department's "First In/First Out policy" violates the Constitution, that is an issue he will have to raise in a separate lawsuit (for which he will owe an additional filing fee) after he exhausts his administrative remedies.

ORDER

IT IS ORDERED that plaintiff Larry Brown's motion to waive or reduce his monthly payments of the unpaid balance of his filing fees, dkt. #103, is DENIED.

Entered this 31st day of July, 2015.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge